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February 16, 2004

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
333 Commerce Street, Suite 2101
Nashville, TN 37201

Re Triennial Review Order - 9 Month Proceeding - Loop & Transport, Docket No
03-00527

Dear Guy

Please find enclosed KMC Telecom III, LLC's Responses to BellSouth
Telecommunication's Subpoena Duces Tecum in the above-referenced matter, a copy of which
was faxed to you on Friday, February 12, 2004

C-mailed to

If you have any questions, please contact me

Sincerely,



H. LaDon Baltimore
Counsel for KMC Telecom

LDB/dcg

Enclosure

cc TRA, Attn: Sharla Dillon
Interested Parties' Counsel of Record

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

February 13, 2004

**IN RE: TRIENNIAL REVIEW)
 ORDER - 9 MONTH) DOCKET NO. 03-00527
 PROCEEDING-)
 LOOP & TRANSPORT)**

**KMC TELECOM III, LLC'S RESPONSES TO
BELLSOUTH TELECOMMUNICATION'S
SUBPOENA DUCES TECUM**

Comes now KMC Telecom III, LLC ("KMC"), by and through its counsel of record, and responds to BellSouth Telecommunications, Inc 's ("BellSouth") First Set of Interrogatories as follows

A General Objections

KMC makes the following General Objections to BellSouth's First Set of Interrogatories, including the applicable definitions and general instructions therein ("BellSouth discovery"), which as appropriate will be incorporated into each relevant response when KMC's responses are served on BellSouth

1 KMC objects to the BellSouth discovery to the extent that such discovery seeks to impose an obligation on KMC to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules KMC further objects to any and all BellSouth discovery that seeks to obtain information from KMC for KMC subsidiaries, affiliates, or other related KMC entities that are not certificated by the Commission

2 KMC has interpreted the BellSouth discovery to apply to KMC's regulated intrastate operations in Tennessee and will limit its responses accordingly To the extent that any BellSouth discovery is intended to apply to matters that take place outside the state of Tennessee and which are not related to Tennessee intrastate operations subject to the jurisdiction of the Commission, KMC objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive

3 KMC objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4 KMC objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations but are not properly defined or explained for purposes of these requests. Any responses provided by KMC in response to the BellSouth discovery will be provided subject to, and without waiver of, the foregoing objection

5 KMC objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action

6 KMC objects to the BellSouth discovery insofar as it seeks information or documents, or seeks to impose obligations on KMC which exceed the requirements of the Tennessee Rules of Civil Procedure or Tennessee law

7 KMC objects to providing information to the extent that such information is already in the public record before the Tennessee Regulatory Authority ("TRA") or which is already in the possession, custody, or control of BellSouth.

8. KMC objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written

9 KMC objects to each and every request to the extent that the information requested constitutes "trade secrets" which are privileged pursuant to T.C.A. §65-3-109 and other relevant Tennessee statutes and regulations. To the extent that BellSouth's requests seek proprietary confidential business information which is not the subject of the "trade secrets" privilege, KMC will make such information available to counsel for BellSouth pursuant to an appropriate Protective Agreement, subject to any other general or specific objections contained herein

10 KMC is a large corporation with employees located in many different locations in Tennessee and in other states. In the course of its business, KMC creates countless documents that are not subject to TRA or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. KMC will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information. To the extent that the BellSouth discovery purports to require more, KMC objects on the grounds that compliance would impose an undue burden or expense

11 KMC objects to the BellSouth discovery that seeks to obtain “all,” “each,” or “every” document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome. Any answers that KMC may provide in response to the BellSouth discovery will be provided subject to, and without waiver or, this objection

12 KMC objects to the BellSouth discovery to the extent such discovery seeks to have KMC create documents not in existence at the time of the request

13. KMC objects to the BellSouth discovery to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket, as such discovery is overly broad and unduly burdensome

14 In light of the short period of time KMC has been afforded to respond to the BellSouth discovery, the development of KMC’s positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. Except as stated in response to a specific BellSouth discovery request, KMC does not assume an affirmative obligation to supplement its answers on an ongoing basis, contrary to the BellSouth General Instruction

B Specific Objections

KMC makes the following Specific Objections to BellSouth’s First Set of Interrogatories, including the applicable definitions and general instructions expressed therein (“BellSouth discovery”), which as appropriate will be incorporated into each relevant response when KMC’s responses are served on BellSouth

15. KMC objects to each and every interrogatory that seeks information regarding KMC’s operations in ILEC service areas other than the BellSouth ILEC service area within the state of Tennessee as such information is irrelevant to BellSouth’s case in this docket and such discovery is overly broad and unduly burdensome

16 KMC objects to each and every interrogatory that seeks to obtain information regarding “former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of KMC” as such information is not within KMC’s control, it would be unduly burdensome to attempt to obtain, and it is likely irrelevant

17 Outside of the discovery request served by BellSouth on October 29, 2003, there have been discussions between BellSouth and some of the CLECs that this discovery is “regional” in nature and that BellSouth would prefer that the CLECs respond on a regional basis without additional service in these other states. At this point in time, without necessarily agreeing or disagreeing with BellSouth’s request for regional answers, KMC reserves its rights to object to providing responsive information for states other than Tennessee. Further, in the event KMC does provide responsive information for states other than Tennessee pursuant to the October 29, 2003, discovery in this Tennessee docket, KMC reserves its rights to not provide

such non-Tennessee information in the Tennessee FPSC case. Finally, in the event KMC does provide information for states other than Tennessee pursuant to the October 29, 2003, discovery in this Tennessee docket, KMC reserves its rights to provide such non-Tennessee information on a supplemental basis.

MATTERS UPON WHICH EXAMINATION IS REQUESTED
PURSUANT TO T.C.A. §§ 4-5-311 and 65-2-102

1 Please admit that KMC Telecom III, LLC ("KMC") has self-reported in CLONES (Central Location Online Entry System) database from Telcordia or to other third parties that it has deployed high capacity loop facilities to the addresses listed in Exhibit 1 attached hereto

Response. KMC adopts and incorporates its General Objections 4 and 5 as if set forth herein verbatim. Subject to, and without waiving these objections, KMC states as follows: The location that BellSouth has listed in Exhibit 1 is the physical address for KMC's switch. KMC has self-reported the location of its switch and the corresponding Common Language Location Identifier ("CLLI") Codes identifying its switch. KMC's understanding is that the Central Location Online Entry System ("CLONES") is used to create, update and maintain all valid CLLI codes which are used worldwide to identify and describe three types of locations and entities placed at each: (1) network sites/entities, including such network locations as central office buildings, business and commercial offices, microwave radio structures and earth stations, (2) network support sites, including such locations as international boundaries or crossing points, end points, fiber nodes, cable and facility junctions, manholes, poles and repeaters, and (3) customers sites, including customer locations and associated circuit terminations, facilities or equipment for each specific customer. KMC's self-reporting of the address listed in Exhibit 1 satisfies the type (1) reporting obligations.

Responsible KMC Employee: Objections provided by Counsel. Responses provided by Don Menendez.

2. Please admit that KMC has deployed high capacity loop facilities to the addresses listed in Exhibit 1 attached hereto

Response. KMC adopts and incorporates its General Objections 4 and 5 and its response to Requests for Admission 1 as if set forth herein verbatim.

3. Please admit that KMC Telecom III, LLC, (“KMC”) has deployed high capacity transport facilities to each of the central offices (identified by CLLI codes) listed in Exhibit 2 attached hereto

Response KMC adopts and incorporates its General Objections 3, 4, 5, 6, and 13, and its Specific Objection 15 as if set forth herein verbatim. Subject to, and without waiving these objections, KMC states as follows. The locations that BellSouth has listed in Exhibit 2 are all BellSouth central offices where KMC is collocated. To the extent that KMC may have deployed transport from these collocations to the KMC switch, such transport is not relevant to the facts in this proceeding as such transport does not meet the definition of a route as defined in the Triennial Review. KMC’s response to this interrogatory is based on the definition and evaluation criteria set forth in the Triennial Review. The triggers adopted by the FCC in Triennial Review require a transport evaluation on a “route-specific” basis. TRO ¶ 401. Specifically, 47 C.F.R. § 51.319 (e) defines a “route” as “a transmission path between one of an incumbent LEC’s wire centers or switches and another of the incumbent LEC’s wire centers or switches.” Transport between non-ILEC wire centers and switches is not defined as a “route” for the purposes of the Triennial Review’s trigger analysis. KMC will construe the terms contained in this interrogatory, and all other interrogatories, in accordance with 47 C.F.R. § 51.319 (e) and applicable law.

Responsible KMC Employee: Objections provided by Counsel. Responses provided by Don Menendez.

4. Please admit that KMC can route or transport traffic using KMC’s own facilities between any pair of central offices to which it has deployed high capacity transport facilities. This includes routing or transporting traffic directly between the central offices or indirectly through an intermediate aggregation point, such as KMC’s switch or the switch of another KMC.

Response KMC adopts and incorporates its General Objections 3, 4, 5, 6, and 13, and its Specific Objection 15 as if set forth herein verbatim. In addition, KMC objects on the ground that BellSouth does not define its use of the terms “route” and “transport.” Thus, KMC is unable to respond as this question is vague. Subject to, and without waiving these objections, KMC states as follows. KMC denies that its current network configuration is configured to route and/or transport traffic using KMC’s own facilities between any pair of central offices to which it has deployed high capacity transport facilities. KMC further objects because it does not configure its network according to “route” traffic between “pair[s]” of ILEC central offices or wire centers. KMC’s response to this interrogatory is based on the definition and evaluation criteria set forth in the Triennial Review. The triggers adopted by the FCC in Triennial Review require a transport evaluation on a “route-specific” basis. TRO ¶ 401. Specifically, 47 C.F.R. §

51 319 (e) defines a “route” as “a transmission path between one of an incumbent LEC’s wire centers or switches and another of the incumbent LEC’s wire centers or switches ” Transport between non-ILEC wire centers and switches is not defined as a “route” for the purposes of the Triennial Review’s trigger analysis KMC will construe the terms contained in this interrogatory, and all other interrogatories, in accordance with 47 C F R § 51 319 (e) and applicable law

Responsible KMC Employee: Objections provided by Counsel Responses provide by Don Menendez

5 Please admit that KMC has fiber-based collocation arrangements at the central offices (identified by CLLI code) listed in Exhibit 1 attached hereto

Response KMC adopts and incorporates its General Objections 4 and 5 and its Specific Objection 15 as if set forth herein verbatim Subject to, and without waiving these objections, KMC states as follows. BellSouth’s Exhibit 1 does not list any switch CLLIs Nonetheless, KMC does admit that it has fiber based collocations at the following CLLIs in Tennessee CHTGTNBR, CHTGTNDT, and CHTGTNNS

Responsible KMC Employee: Objections provided by Counsel Responses provide by Don Menendez

6 If KMC has denied any of the previous Requests for Admissions, state all facts and identify all documents that support such denial.

Response KMC adopts and incorporates its General Objections 3, 4, 5, 6, and 13, and its Specific Objection 15 as if set forth herein verbatim Subject to, and without waiving these objections, KMC states as follows See KMC Telecom III, LLC’S Discovery Response to Bellsouth Telecommunications First Set of Interrogatories

Responsible KMC Employee: Objections and responses provided by Counsel.

7. If KMC has admitted any portion of Item 4 above, please describe with particularity the nodes or termination points along the route

Response KMC adopts and incorporates its General Objections 3, 4, 5, 6, and 13, and its Specific Objection 15 as if set forth herein verbatim. Subject to, and without waiving these objections, KMC states as follows KMC has made no such admissions to Item 4.

Responsible KMC Employee: Objections and responses provided by Counsel

8 If KMC has deployed any high capacity loop facilities in any of the Southeastern states, please provide the percentage of buildings where KMC installed its own inside wiring, the percentage of buildings where KMC is leasing inside wiring from another carrier, including the ILEC, and the percentage of buildings where KMC is using inside wiring owned by the building owner. In each of these situations, please describe with specificity the cost paid for installing or leasing the inside wire in buildings.

Response KMC adopts and incorporates its General Objections 3, 4, 5, 6, and 13, and its Specific Objection 15 as if set forth herein verbatim. KMC objects to and is unable to answer this question as it is vague, overbroad, and is not reasonably calculated to lead to the discovery of relevant admissible evidence.

Responsible KMC Employee: Objections and responses provided by Counsel.

REQUESTS FOR PRODUCTION

1 Produce any documents identified above.


Response. KMC hereby incorporates its objections and responses to Questions 1-6 above. In addition, KMC hereby provides notice that responsive information may not be available in the form requested. Subject to and without waiving these objections and the notice of unavailability of data, KMC has previously provided responsive information to BellSouth.

Responsible KMC Employee: Objections provided by Counsel.

Respectfully submitted,



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Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing has been forwarded via e-mail or fax to Bellsouth the 13th day of February, 2004 and via U S Mail, first class postage prepaid, to the following, the 16th day of February, 2004

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